

2013 DRAFTING REQUEST**Bill**

Received: **4/16/2013** Received By: **mglass**
 Wanted: **As time permits** Same as LRB:
 For: **Terry Moulton (608) 266-7511** By/Representing: **Nathan Duerkop**
 May Contact: Drafter: **mglass**
 Subject: **Buildings/Safety - bldg stndrds** Addl. Drafters:
 Extra Copies:

Submit via email: **YES**
 Requester's email: **Sen.Moulton@legis.wisconsin.gov**
 Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Ordinances setting building standards

Instructions:

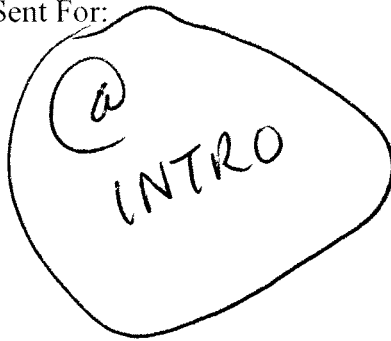
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/1	mglass 8/16/2013	scalvin 8/2/2013	jmurphy 8/2/2013	_____	srose 8/2/2013		State S&L
/2	mglass	scalvin	jmurphy	_____	sbasford		State

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1/4 - hold
 have heard nothing since Nov.

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1/3 sac
 02/05/2014
 1/3 sac
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 Bluechecked revision

1/3 was not sent to requester.

Vers. Drafted

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8/16/2013

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8/16/2013

Proofed

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Jacketed

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S&L

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08/16/2013*

*Jim
8/16*

*Jim
8/16*

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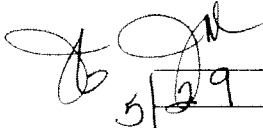
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/?	mglass	/PI sac 05/23/2013		5/29			

FE Sent For:

<END>

Gibson-Glass, Mary

From: Gibson-Glass, Mary
Sent: Tuesday, April 16, 2013 1:52 PM
To: Duerkop, Nathan
Subject: FW: 2011 SB 32 redraft

Nathan,

I'll be the drafter for this.

Mary Gibson-Glass
Senior Legislative Attorney
Legislative Reference Bureau
608 267 3215

From: Duerkop, Nathan
Sent: Tuesday, April 16, 2013 12:25 PM
To: Kite, Robin
Subject: 2011 SB 32 redraft

Hello Robin,

I'm interested in a redraft of 2011's SB 32 dealing with the Uniform Commercial Building Code. There have been negotiations with stakeholders since last session and we have some changes to make in the new draft, mostly dealing with grandfathering in existing local exceptions. The attached document should lay out much of what we want to do. Some issues will still need to be decided on such as the date when grandfathering ends. Please let me know if this is something you can help us with and if you have questions. Thanks,

Nathan Duerkop

Chief of Staff
Senator Terry Moulton
23rd Senate District

Email: nathan.duerkop@legis.wisconsin.gov
Toll-Free: 1-888-437-9436
Direct: (608) 266-7511



UCB Draft.pdf

Uniform Commercial Building Code Proposal (Draft)

December 2012

Uniformity - No city, village, town, or county may enact or enforce an ordinance establishing minimum standards for the construction, repair, or alteration of places of employment and public buildingsⁱ unless that ordinance strictly conforms to rules promulgated by the department, except that preexisting ordinances that establish minimum standards governing fire detection, prevention and suppression devicesⁱⁱ serving places of employment and public buildings, other than multifamily dwellings, which are stricter than the rules promulgated by the department are grandfathered.

Grandfathering - Preexisting ordinances governing fire detection, prevention and suppression devices serving places of employment and public buildings other than multifamily dwellings which were in effect prior to September 1, 2012 and do not conform to rule promulgated by the department can be grandfathered provided:

- 1) The ordinance was adopted prior to TBD (September 1, 2012 – July 2013)
- 2) The ordinance is submitted and published in the repository by the department within 60 days after effective date of the bill.

Amendments to Grandfather Ordinances – Cities, villages, towns, or counties can amend grandfathered ordinances related to fire detection, prevention and suppression provided:

- 1) The amendment did not expand or change the subject matter of the grandfathered ordinance.
- 2) The amended ordinance was submitted to the department and published 120 days prior to becoming enforceable.

Other Provisions

- Create a Commercial Building Code Advisory Council in statute with duties and membership identified (similar structure to the Uniform Dwelling Code Council).
- This subchapter does not restrict the duties and powers of fire chiefs or inspectors under s. 101.14(2)ⁱⁱⁱ nor a municipality's authority to adopt and enforce a property maintenance code.
- Anyone conducting commercial building inspections for the purposes of compliance with the commercial building code must be a certified commercial building inspector.
- On projects where compliance with the code is difficult or not possible, project specific equivalencies could be agreed upon and utilized.

ⁱBuilding code pertains to the design, construction and alteration of buildings and structures. Not to interfere with a municipality's zoning code pertaining to land use, setbacks, building height, materials and other general planning and development issues. Not intended to interfere with municipal authority to conduct inspections or to contract for inspections, set and collect fees or issue permits.

ⁱⁱ Fire detection, prevention and suppression devices include but are not limited to manual fire alarm systems, smoke and heat detection devices, fire extinguishers, standpipes, automatic fire suppression systems and automatic fire sprinkler systems.

ⁱⁱⁱThe chief of the fire department in every city, village or town, except cities of the 1st class, is constituted a deputy of the department, subject to the right of the department to relieve any such chief from duties as such deputy for cause, and upon such suspension to appoint some other person to perform the duty imposed upon such deputy. The department may appoint either the chief of the fire department or the building inspector as its deputy in cities of the 1st class. The chief of every fire department shall provide for the inspection of every public building and place of employment to determine and cause to be eliminated any fire hazard or any violation of any law relating to fire hazards or to the prevention of fires.

- 1211 -

Vetoed in Part ber of the committee represents each of the groups described in par. (a) (intro.).

(c) The members of the council shall serve 3-year terms.

Vetoed in Part SECTION 13p. 15.197 (22) of the statutes is created to read:

15.197 (22) COUNCIL ON AMERICAN INDIAN HEALTH. There is created a council on American Indian health, attached to the department of health and social services under s. 15.03, consisting of 13 members appointed for 3-year terms. At least 9 members shall be selected from names submitted by the Wisconsin Indian tribes or the Great Lakes inter-tribal council. Each council member shall have a demonstrated interest in and knowledge of health care issues affecting American Indians in this state.

SECTION 14. 15.227 (20) of the statutes is created to read:

15.227 (20) MULTIFAMILY DWELLING CODE COUNCIL. (a) There is created in the department of industry, labor and human relations a multifamily dwelling code council consisting of the following members appointed for 3-year terms:

1. Two members representing labor organizations for the skilled building trades, each of whom is actively engaged in his or her trade.

2. Two members representing municipal inspectors, one of whom is actively engaged in inspections in a county whose population is less than 50,000 and one of whom is actively engaged in inspections in a county whose population is 50,000 or more.

3. Two members representing the fire services, each of whom is actively engaged in fire service work and at least one of whom is a fire chief.

4. Two members representing building contractors and building developers, each of whom is actively engaged in on-site construction of multifamily housing.

5. Three members representing manufacturers of materials or suppliers of finished products in one of 5 product categories, consisting of cement products, concrete block products, gypsum products, metal products and wood products. Each member shall represent the manufacturers or suppliers of a different product category, and each member appointed to a 3-year term shall represent the manufacturers or suppliers of the product category that has not been represented by any of the 3 members for the previous 2 years. Each member shall be actively engaged in the business of manufacturing materials or supplying finished products for multifamily housing.

6. One member representing architects, engineers and designers who is actively engaged in the design or evaluation of multifamily housing.

7. Two members representing the public, at least one of whom is an advocate of fair housing.

(b) An employee of the department shall serve as nonvoting secretary of the council.

(c) The council shall meet at least 2 times annually.

(d) Nine members of the council shall constitute a quorum. For the purpose of conducting business a majority vote of the council is required, except that at least 10 members of the council are required to vote affirmatively to recommend changes in the statutes or administrative rules.

SECTION 14m. 15.253 (1) of the statutes is created to read:

15.253 (1) DIVISION OF CONSUMER PROTECTION. There is created in the department of justice a division of consumer protection. The administrator of the division shall be appointed by the attorney general in the unclassified service, to serve at the pleasure of the attorney general.

SECTION 15. 15.253 (2) of the statutes is created to read:

15.253 (2) DIVISION OF CRIMINAL INVESTIGATION. There is created in the department of justice a division of criminal investigation.

SECTION 15e. 15.315 (N) of the statutes is amended to read:

15.315 (N) STATE EMERGENCY RESPONSE BOARD. There is created a state emergency response board which is attached to the department of military affairs under s. 15.01. The state emergency response board shall consist of one representative of the department of military affairs, division of emergency government, one representative of the subunit of the department of health and social services that administers health-related programs, one representative of the department of transportation, one representative of the department of natural resources, one representative of the department of agriculture and trade and consumer protection, one representative each from fire fighting, law enforcement and public or community health services, 2 representatives of industry, one representative of small business, as defined in s. 15.207 (3), 2 representatives who are elected officials or employees of county and municipal government, one representative of a farm or agricultural organization, one representative of a labor organization and one representative of an environmental organization. The members of the board shall serve at the pleasure of the governor.

SECTION 15g. 15.347 (8) (d) 2 of the statutes is amended to read:

15.347 (8) (d) 2. The department of agriculture and trade and consumer protection, appointed by the secretary thereof, and

SECTION 15i. 15.347 (13) (b) 3 of the statutes is amended to read:

15.347 (13) (b) 3. The secretary of agriculture and trade and consumer protection

SECTION 15m. 15.347 (18) of the statutes is created to read:

15.347 (18) AQUATIC NUISANCE CONTROL COUNCIL. (a) There is created in the department of natural resources an aquatic nuisance control council.

Vetoed in Part

Vetoed in Part

2 labor

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and

section, the Wisconsin housing and economic development authority shall transfer to the department of administration for deposit in the general fund \$2,262,800 from the Wisconsin development reserve fund under section 234.93 of the statutes.

SECTION 9129. Nonstatutory provisions; industry, labor and human relations.

(1) MULTIFAMILY DWELLING CODE COUNCIL.

(a) Notwithstanding the length of terms specified in section 15.227 (20) (a) (intro.) of the statutes, as created by this act, the first members of the multifamily dwelling code council created by section 15.227 (20) of the statutes, as created by this act, shall be appointed by the governor for the following terms:

1. One member appointed under section 15.227 (20) (a) 5 of the statutes, as created by this act, the member appointed under section 15.227 (20) (a) 6 of the statutes, as created by this act, and the 2 members appointed under section 15.227 (20) (a) 7 of the statutes, as created by this act, for terms expiring on July 1, 1995.

2. One member appointed under section 15.227 (20) (a) 1 of the statutes, as created by this act, one member appointed under section 15.227 (20) (a) 2 of the statutes, as created by this act, one member appointed under section 15.227 (20) (a) 3 of the statutes, as created by this act, one member appointed under section 15.227 (20) (a) 4 of the statutes, as created by this act, and one member appointed under section 15.227 (20) (a) 5 of the statutes, as created by this act, for terms expiring on July 1, 1994.

3. One member appointed under section 15.227 (20) (a) 1 of the statutes, as created by this act, one member appointed under section 15.227 (20) (a) 2 of the statutes, as created by this act, one member appointed under section 15.227 (20) (a) 3 of the statutes, as created by this act, one member appointed under section 15.227 (20) (a) 4 of the statutes, as created by this act, and one member appointed under section 15.227 (20) (a) 5 of the statutes, as created by this act, for terms expiring on July 1, 1993.

(b) The 2 members appointed to succeed the 2 members appointed under section 15.227 (20) (a) 5 of the statutes, as created by this act, for terms expiring on July 1, 1993, and July 1, 1994, respectively, shall each represent a product category specified in section 15.227 (20) (a) 5 of the statutes, as created by this act, that has not been represented by a member.

(2) MULTIFAMILY DWELLING RULES. The department of industry, labor and human relations shall submit the proposed rules required under section 101.973 of the statutes, as created by this act, to the legislative council staff under section 227.15 (1) of the statutes, no later than July 1, 1993.

Vetoed in Part (2a) ~~PENALTIES FOR CHILD LABOR VIOLATIONS.~~ The department of industry, labor and human relations shall study the penalties imposed under sections 103.39 and 103.52 of the statutes and develop a proposal for legislation to implement a two-tiered system

~~of penalties for violations of the child labor laws under which a person who commits a major violation receives a major penalty and a person who commits a minor violation receives a minor penalty. The department shall report its findings and recommendations to the chief clerk of each house of the legislature for distribution to the appropriate standing committees in the manner provided in section 13.172 (3) of the statutes by no later than January 1, 1993.~~

(3f) UNIFORM FIREWALL IDENTIFICATION RULES. The department of industry, labor and human relations shall promulgate rules under section 101.135 (1) of the statutes, as created by this act, to be effective no later than January 1, 1993.

(3j) ALTERNATIVE DISPUTE RESOLUTION. In fiscal year 1992-93, the department of industry, labor and human relations shall assign not less than 1.0 FTE position of that department, in addition to the full-time equivalent positions assigned in fiscal years 1991-92, to provide alternative dispute resolution of complaints filed under section 111.39 of the statutes.

SECTION 9131. Nonstatutory provisions; investment board.

(1g) POSITION AUTHORIZATIONS. The authorized FTE positions for the investment board are increased by 4.0 PR positions, to be funded from the appropriation under section 20.536 (1) (k) of the statutes, to provide staffing for a growth stock division.

SECTION 9135. Nonstatutory provisions; justice.

(1f) GAMING LAW ENFORCEMENT; LOTTERY REVENUES. The authorized FTE positions for the department of justice are increased by 5.0 SEG positions on July 1, 1992, or on the effective date of this subsection, whichever is later, for the performance of the department's gaming law enforcement responsibilities as specified in section 165.70 (3m) of the statutes, as created by this act, to be funded from the appropriation under section 20.455 (2) (r) of the statutes, as created by this act.

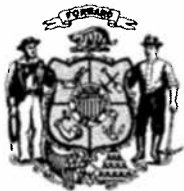
(1g) GAMING LAW ENFORCEMENT; RACING REVENUES. The authorized FTE positions for the department of justice are increased by 3.0 PR positions on July 1, 1992, or on the effective date of this subsection, whichever is later, for the performance of the department's gaming law enforcement responsibilities as specified in section 165.70 (3m) of the statutes, as created by this act, to be funded from the appropriation under section 20.455 (2) (g) of the statutes, as created by this act.

SECTION 9136. Nonstatutory provisions; legislature.

(1x) PAYMENTS FOR MUNICIPAL SERVICES. The legislature intends to appropriate the necessary moneys to fully fund the payments for municipal services program under section 70.119 of the statutes beginning in the 1993-94 fiscal year.

(2e) STUDY OF EXTENDED SCHOOL YEAR. The legislative council is requested to study the issue of increasing the number of school days held each school year,

Vetoed in Part



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2184/7

MGG./:....

SAC

uw 5/16

PH

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *gen cat*; **relating to:** ordinances and rules relating to the construction, repair,
2 and maintenance of public buildings and buildings that are places of
3 employment, the creation of a building code council, and inspections of public
4 buildings and buildings that are places of employment.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

5 **SECTION 1.** 15.407 (18) of the statutes is created to read:
6 15.407 (18) BUILDING CODE COUNCIL. (a) There is created in the department of
7 safety and professional services a building code council consisting of the following
8 members appointed for 3-year terms:
9 1. Two members representing labor organizations for the skilled building
10 trades, each of whom is actively engaged in his or her trade.

1 2. Two members representing municipal inspectors, one of whom is actively
2 engaged in inspections in a county whose population is less than 50,000 and one of
3 whom is actively engaged in inspections in a county whose population is 50,000 or
4 more.

5 3. Two members representing the fire services, each of whom is actively
6 engaged in fire service work and at least one of whom is a fire chief.

7 4. Two members representing building contractors and building developers,
8 each of whom is actively engaged in on-site construction of public buildings and
9 buildings that are places of employment.

10 5. Three members representing manufacturers of materials or suppliers of
11 finished products in one of 5 product categories, consisting of cement products,
12 concrete block products, gypsum products, metal products and wood products. Each
13 member shall represent the manufacturers or suppliers of a different product
14 category.

15 6. One member representing architects, engineers, and designers who is
16 actively engaged in the design or evaluation of public buildings and buildings that
17 are places of employment.

18 7. Two members representing the public.

19 (b) Each member appointed to a 3-year term under par. (a) 5. shall represent
20 the manufacturers or suppliers of the product category that has not been represented
21 by any of the 3 member^s for the previous 2 years.

22 (c) Each member appointed under par. (a) 5. shall be actively engaged in the
23 business of manufacturing materials or supplying finished products for the
24 construction of public buildings and buildings that are places of employment.

(d) An employee of the department shall serve as nonvoting secretary of the council.

(e) The council shall meet at least 2 times annually.

(f) Nine members of the council shall constitute a quorum. For the purpose of conducting business a majority vote of the council is required, except that at least 10 members of the council are required to vote affirmatively to recommend changes in the statutes or rules.

SECTION 2. 101.02 (7r) of the statutes is created to read:

101.02 (7r) (a) *Strict compliance required.* Notwithstanding sub. (7) (a), no city, village, or town may enact or enforce an ordinance establishing minimum standards for the construction, repair, or maintenance of public buildings or buildings that are places of employment unless that ordinance strictly conforms to rules promulgated by the department under sub. (15) (j), except as provided in pars. (b) to (d).

(b) *Exemption; prior ordinances.* Notwithstanding par. (a), a town, village, or city may enforce an ordinance establishing minimum standards for construction, repair, or maintenance of public buildings and buildings that are places of employment that does not strictly conform to the rules promulgated by the department under sub. (15) (j) if all of the following apply:

1. The ordinance was enacted before September 1, 2012.
2. The ordinance was published by the town, village, or city in the manner required under s. 60.80, 61.50, or 62.11 (4).
3. The ordinance relates to fire detection, prevention, and suppression.
4. The building is not a multifamily dwelling, as defined in s. 101.971 (2).

(c) *Amendments to prior ordinances.* A town, village, or city may amend an ordinance that is enforceable under par. (b) if all of the following apply:

1. The amendment will not ~~expand or change~~^{broaden} the applicability of the ordinance.
2. The town, village, or city submits a copy of the proposed amendment to the department at least 120 days before the effective date of the amendment.
3. The town, village, or city publishes the enacted amendment in the manner required under s. 60.80, 61.50, or 62.11 (4) at least 120 days before the effective date of the amendment.

(d) *Property maintenance code.* Notwithstanding par. (a), a town, village, or city may enact and enforce an ordinance establishing a property maintenance code that is stricter than rules promulgated by the department under sub. (15) (j).

SECTION 3. 101.023 of the statutes is created to read:

101.023 Building code council duties. The building code council shall review the rules for construction, repair and maintenance of public buildings and buildings that are places of employment. The council shall consider and make recommendations to the department pertaining to these rules and any other matters related to the construction, repair, and maintenance of public buildings and buildings that are places of employment. The council shall identify, consider, and make recommendations to the department regarding variances in the rules for different climate and soil conditions and the variable conditions created by building and population densities. In preparing rules under this chapter that relate to public buildings and to buildings that are places of employment, the department shall consult with the building code council.

SECTION 4. 101.024 of the statutes is created to read:

or change the
subject matter
of the
ordinance

101.024 Compliance with standards for public buildings and places of employment. (1) Any inspection performed to determine compliance with the building code rules promulgated by the department that relate to the construction, repair, and maintenance of public buildings and buildings that are places of employment may be performed only by a person who is certified under rules promulgated by the department to make inspections of public buildings and buildings that are places of employment.

(2) If a person inspecting a public building or a building that is a place of employment determines that compliance with a provision of rule specified under sub. (1) will be difficult or impossible, the department may authorize an equivalent standard that meets the intent of the rule.

SECTION 5. 101.147¹ (1) of the statutes is amended to read:

101.147 (1) No person may hold himself or herself out or act as a construction building contractor unless that person is registered as a construction building contractor by the department.

History: 2009 a. 28.

SECTION 6. 101.19¹ (1g) (m) of the statutes is amended to read:

101.19 (1g) (m) Registering construction building contractors under s. 101.147.

History: 1971 c. 185; 1971 c. 228 s. 42; Stats. 1971 s. 101.19; 1975 c. 39; 1977 c. 29; 1979 c. 221; 1983 a. 27, 94, 446; 1987 a. 343; 1991 a. 39, 269; 1993 a. 414; 1999 a. 53; 2001 a. 16; 2005 a. 45, 456; 2007 a. 203; 2009 a. 28; 2011 a. 32, 199, 209.

SECTION 7. Nonstatutory provisions.

(1) COUNCIL; TERMS OF INITIAL MEMBERS.

(a) Notwithstanding the length of terms specified in section 15.407 (18) (a) (intro.) of the statutes, as created by this act, the initial members of the building code council under section 15.407 (18) of the statutes, as created by this act, shall be appointed by the governor for the following terms:

1. One member appointed under section 15.407 (18) (a) 5. of the statutes, as created by this act, the member appointed under section 15.407 (18) (a) 6. of the statutes, as created by this act, and the 2 members appointed under section 15.407 (18) (a) 7. of the statutes, as created by this act, for terms expiring on July 1, 2017.

2. One member appointed under section 15.407 (18) (a) 1. of the statutes, as created by this act, one member appointed under section 15.407 (18) (a) 2. of the statutes, as created by this act, one member appointed under section 15.407 (18) (a) 3. of the statutes, as created by this act, one member appointed under section 15.407 (18) (a) 4. of the statutes, as created by this act, and one member appointed under section 15.407 (18) (a) 5. of the statutes as created by this act for terms expiring on July 1, 2016.

3. One member appointed under section 15.407 (18) (a) 1. of the statutes, as created by this act, one member appointed under section 15.407 (18) (a) 2. of the statutes, as created by this act, one member appointed under section 15.407 (18) (a) 3. of the statutes, as created by this act, one member appointed under section 15.407 (18) (a) 4. of the statutes, as created by this act, and one member appointed under section 15.407 (18) (a) 5. of the statutes as created by this act for terms expiring on July 1, 2015.

(b) Notwithstanding section 15.407 (18) (b) of the statutes, as created by this act, the 2 members appointed to succeed the 2 members appointed under section 15.407 (18) (a) 5. of the statutes, as created by this act, for terms expiring on July 1, 2015, and July 1, 2016[^] respectively, shall each represent a product category specified in section 15.407 (18) (a) 5. of the statutes, as created by this act, that has not been represented by a member.

(END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2184/1dn ^{P1}
MGG:.....
SAC

- date -

I did not see how this legislation would restrict the duties and powers of fire chiefs or inspectors under s. 101.14 (2) so I did not include any language relating to this.

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215
E-mail: mary.gibson-glass@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2184/P1dn
MGG:sac:jf

May 29, 2013

I did not see how this legislation would restrict the duties and powers of fire chiefs or inspectors under s. 101.14 (2) so I did not include any language relating to this.

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215
E-mail: mary.gibson-glass@legis.wisconsin.gov

Gibson-Glass, Mary

From: Duerkop, Nathan
Sent: Tuesday, July 02, 2013 3:25 PM
To: Gibson-Glass, Mary
Subject: RE: Draft review: LRB -2184/P1 Topic: Ordinances setting building standards
Attachments: 201307021520.pdf

Attached are some requested changes to this draft. Let me know if you have any questions. Thanks,


Nathan
Office of Sen. Moulton

From: LRB.Legal
Sent: Wednesday, May 29, 2013 10:03 AM
To: Sen.Moulton
Subject: Draft review: LRB -2184/P1 Topic: Ordinances setting building standards

Following is the PDF version of draft LRB -2184/P1 and drafter's note.

Requested Changes to LRB – 2184/P1

Section 1 — Building Code Council

- 
1. Page 2, line 1 — delete “labor organizations for”
 2. Page 2, lines 3 through 6 — after “inspectors” on line 3 — delete the rest of line 3 through line 6 and replace with — “each of whom is a certified building inspector employed by a local unit of government.”
 3. Page 2, line 9 — delete “and building developers”
 4. Page 2, lines 12-16 — delete lines 12-16.
 5. Page 2, line 17 — delete “One member” and replace with “Two members” — also delete “who” and replace with “each of whom”
 6. Page 2, line 20 — delete line 20
 7. Page 2, line 21 through Page 3, line 3 — delete lines 21-23 on page 2 and lines 1-3 on page 3.
 8. Page 3, line 7 — delete “Nine” and insert “Six”
 9. Page 3, line 8 — delete “10” and insert “8”

Section 2 — Uniform Building Code & Grandfather Provisions

1. Page 3, line 22 — delete “September 1, 2012” and insert “May 1, 2013”
2. Page 4, line 1 — after line 1, insert the following:
“5. The ordinance is submitted to the department within 60 days after the effective date of this act.”
“6. The department determines the ordinance requires standards that are at least as strict as rules promulgated by the department.”

Section 4 — Equivalency Variances

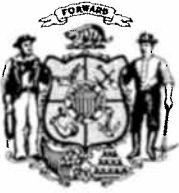
1. Page 5, lines 9-12 — Delete lines 9-12.
2. Add a new provision that specifies that a building contractor may apply for, and the department may grant, a project specific variance related to the construction, repair and maintenance of public buildings and places of employment if the department finds the requested variance provides an equivalent standard that meets the intent of the department’s rules.
3. Add a new provision to amend current law under s. 101.12 (3) (bm) as follows:
“(bm) Accept the review and determination performed by 1st class cities, or certified 2nd class cities, on variances for buildings if the variances are reviewed and decided on in a manner approved by the department.”

Section 5 and Section 6 — Contractor Registration

Delete Section 5 and Section 6. (Note: provisions relate to contractor registration provisions, which would be repealed under the pending state budget bill (AB 40).

Section 7 — Nonstatutory Provisions – Council Terms

Modify Section 7 to correspond with changes outlined in Section 1



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2184/Pt 1
MGG:sac:ff

by
FRI

D-N

soon 7/22

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Ref 8/1/13

- gen cat

variances
variances

1 **AN ACT** *to amend* 101.147 (1) and 101.19 (1g) (m); and *to create* 15.407 (18),
2 101.02 (7r), 101.023 and 101.024 of the statutes; **relating to:** ordinances and
3 rules relating to the construction, repair, and maintenance of public buildings
4 and buildings that are places of employment, the creation of a building code
5 council, and inspections of public buildings and buildings that are places of
6 employment.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

INSERT
ANL

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

7 **SECTION 1.** 15.407 (18) of the statutes is created to read:
8 15.407 (18) BUILDING CODE COUNCIL. (a) There is created in the department of
9 safety and professional services a building code council consisting of the following
10 members appointed for 3-year terms:

authorized to do inspections under
§ 101.12(4) and

who is employed by a
city, village,
or county

local
building

1. Two members representing labor organizations for the skilled building trades, each of whom is actively engaged in his or her trade.

2. Two members representing municipal inspectors, one of whom is actively engaged in inspections in a county whose population is less than 50,000 and one of whom is actively engaged in inspections in a county whose population is 50,000 or more.

3. Two members representing the fire services, each of whom is actively engaged in fire service work and at least one of whom is a fire chief.

4. Two members representing building contractors and building developers, each of whom is actively engaged in on-site construction of public buildings and buildings that are places of employment.

5. Three members representing manufacturers of materials or suppliers of finished products in one of 5 product categories, consisting of cement products, concrete block products, gypsum products, metal products and wood products. Each member shall represent the manufacturers or suppliers of a different product category.

6. One member representing architects, engineers, and designers who is actively engaged in the design or evaluation of public buildings and buildings that are places of employment.

7. Two members representing the public.

(b) Each member appointed to a 3-year term under par. (a) 5. shall represent the manufacturers or suppliers of the product category that has not been represented by any of the 3 members for the previous 2 years.

(c) Each member appointed under par. (a) 5. shall be actively engaged in the business of manufacturing materials or supplying finished products for the construction of public buildings and buildings that are places of employment.

(b) ~~(d)~~ An employee of the department shall serve as nonvoting secretary of the council.

(c) ~~(e)~~ The council shall meet at least 2 times annually.

(d) ~~(f)~~ ^{Six} ~~Nine~~ members of the council shall constitute a quorum. For the purpose of

conducting business a majority vote of the council is required, except that at least 10 members of the council are required to vote affirmatively to recommend changes in the statutes or rules.

SECTION 2. 101.02 (7r) of the statutes is created to read:

101.02 (7r) (a) *Strict compliance required.* Notwithstanding sub. (7) (a), no city, village, or town may enact or enforce an ordinance establishing minimum standards for the construction, repair, or maintenance of public buildings or buildings that are places of employment unless that ordinance strictly conforms to rules promulgated by the department under sub. (15) (j), except as provided in pars. (b) to (d).

(b) *Exemption; prior ordinances.* Notwithstanding par. (a), a town, village, or city may enforce an ordinance establishing minimum standards for construction, repair, or maintenance of public buildings or buildings that are places of employment that does not strictly conform to the rules promulgated by the department under sub. (15) (j) if all of the following apply:

1. The ordinance was enacted before ^{May} ~~September~~ 1, 201³~~2~~.

2. The ordinance was published by the town, village, or city in the manner required under s. 60.80, 61.50, or 62.11 (4).

3. The ordinance relates to fire detection, prevention, and suppression.

1 4. The building is not a multifamily dwelling, as defined in s. 101.971 (2). ✓

* 2 (c) *Amendments to prior ordinances.* A town, village, or city may amend an ← INSERT
3 ordinance that is enforceable under par. (b) if all of the following apply: 4-1

4 1. The amendment will not broaden the applicability of the ordinance or change
5 the subject matter of the ordinance.

6 2. The town, village, or city submits a copy of the proposed amendment to the
7 department at least 120 days before the effective date of the amendment.

8 3. The town, village, or city publishes the enacted amendment in the manner
9 required under s. 60.80, 61.50, or 62.11 (4) at least 120 days before the effective date
10 of the amendment.

11 (d) *Property maintenance code.* Notwithstanding par. (a), a town, village, or city
12 may enact and enforce an ordinance establishing a property maintenance code that
13 is stricter than rules promulgated by the department under sub. (15) (j).

✓
14 SECTION 3. 101.023 of the statutes is created to read:

15 101.023 **Building code council duties.** The building code council shall
16 review the rules for construction, repair, and maintenance of public buildings and
17 buildings that are places of employment. The council shall consider and make
18 recommendations to the department pertaining to these rules and any other matters
19 related to the construction, repair, and maintenance of public buildings and
20 buildings that are places of employment. The council shall identify, consider, and
21 make recommendations to the department regarding variances in the rules for
22 different climate and soil conditions and the variable conditions created by building
23 and population densities. In preparing rules under this chapter that relate to public
24 buildings and to buildings that are places of employment, the department shall
25 consult with the building code council.

101.12 (4) 5

101.12(4)

← INSERT 5-1

1 SECTION 4. ~~101.024~~ of the statutes is created to read:

2 **101.024 Compliance with standards for public buildings and places of**
3 **employment.** (1) Any inspection performed to determine compliance with the

4 building code rules promulgated by the department that relate to the construction,
5 repair, and maintenance of public buildings and buildings that are places of
6 employment may be performed only by a person who is certified under rules
7 promulgated by the department to make ^{such} inspections of public buildings and
8 buildings that are places of employment.

9 (2) If a person inspecting a public building or a building that is a place of
10 employment determines that compliance with a provision of rule specified under sub.
11 (1) will be difficult or impossible, the department may authorize an equivalent
12 standard that meets the intent of the rule.

13 SECTION 5. 101.147 (1) of the statutes is amended to read:

14 101.147 (1) No person may hold himself or herself out or act as a ~~construction~~
15 building contractor unless that person is registered as a ~~construction~~ building
16 contractor by the department.

17 SECTION 6. 101.19 (1g) (m) of the statutes is amended to read:

18 101.19 (1g) (m) Registering ~~construction~~ building contractors under s. 101.147.

19 SECTION 7. Nonstatutory provisions.

20 (1) COUNCIL; TERMS OF INITIAL MEMBERS.

21 (a) Notwithstanding the length of terms specified in section 15.407 (18) (a)
22 (intro.) of the statutes, as created by this act, the initial members of the building code
23 council under section 15.407 (18) of the statutes, as created by this act, shall be
24 appointed by the governor for the following terms:

← INSERT 5-8

*one member appointed under
section 15.407(18)(a) 4. of the
statutes, as created by this act, 2.*

1 (a) ① One member appointed under section 15.407 (18) (a) ~~3~~². of the statutes, as
2 created by this act, ~~the~~^{one} member appointed under section 15.407 (18) (a) ~~6~~³. of the
3 statutes, as created by this act, and ~~the 2~~^{one} members appointed under section 15.407
4 (18) (a) ~~7~~⁵. of the statutes, as created by this act, for terms expiring on July 1, 2017.

→5 (b) ② One member appointed under section 15.407 (18) (a) 1. of the statutes, as
6 created by this act, one member appointed under section 15.407 (18) (a) 2. of the
7 statutes, as created by this act, one member appointed under section 15.407 (18) (a)
8 3. of the statutes, as created by this act, one member appointed under section 15.407
9 (18) (a) 4. of the statutes, as created by this act, and one member appointed under
10 section 15.407 (18) (a) ~~5~~⁴. of the statutes, as created by this act, for terms expiring on
11 July 1, 2016.

12 (c) ③ One member appointed under section 15.407 (18) (a) 1. of the statutes, as
13 created by this act, one member appointed under section 15.407 (18) (a) ~~2~~³. of the
14 statutes, as created by this act, one member appointed under section 15.407 (18) (a)
15 3. of the statutes, as created by this act, one member appointed under section 15.407
16 (18) (a) ~~4~~⁵. of the statutes, as created by this act, and one member appointed under
17 section 15.407 (18) (a) 5. of the statutes, as created by this act, for terms expiring on
18 July 1, 2015.

19 (b) Notwithstanding section 15.407 (18) (b) of the statutes, as created by this
20 act, the 2 members appointed to succeed the 2 members appointed under section
21 15.407 (18) (a) 5. of the statutes, as created by this act, for terms expiring on July 1,
22 2015, and July 1, 2016, respectively, shall each represent a product category specified
23 in section 15.407 (18) (a) 5. of the statutes, as created by this act, that has not been
24 represented by a member.

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2184/lins
MGG:.....

with a population
of at least 39,000
but less than 150,000

with a population
of at least 150,000.

1

Insert ANL

(DSPS)

With certain exceptions, current law requires the Department of Safety and Professional Services to establish reasonable standards or rules for the construction, repair, and maintenance of ~~and~~ public buildings and buildings that are places of employment so as to render them safe. Pursuant to this requirement, DSPS has promulgated rules establishing such standards. This bill prohibits a city, village, or town from enacting or enforcing an ordinance that establishes minimum standards for the construction, repair, and maintenance of public buildings and buildings that are places of employment unless that ordinance strictly conforms to the rules promulgated DSPS. The bill creates an exception to this prohibition for ordinances establishing property maintenance codes and for certain ordinances relating to fire detection, prevention, or suppression for buildings that are not multifamily dwellings and that were enacted before May 1, 2013.

The bill authorizes DSPS to grant a variance from a standard contained in a rule for a specific building, maintenance, or repair project for a public building or a place of employment if the department finds that the requested variance will impose an equivalent standard that meets the intent of the rule.

Under current law, DSPS must accept the examinations of essential drawings and specifications (plan examinations) for public buildings and buildings that are places of employment that have been performed by 1st class cities or by 2nd class cities that meet certain requirements relating to the competency of the persons performing the plan examinations. A 1st class city is one ~~with~~..... A 2nd class city is one. Also under current law, DSPS must accept reviews and determinations by 1st class cities regarding variances for public buildings and buildings that are places of employment if the reviews and determination are performed in a manner approved by DSPS. This bill requires that DSPS accept variance reviews and determinations by 2nd class cities that are certified by DSPS to perform plan examinations. S

This bill creates a building code council (council) in DSPS to advise the department about issues related to the construction, repair, and maintenance of public buildings and buildings that are places of employment. The council consists of ten members, appointed by the secretary of DSPS ~~for~~ ^{three} year terms. The membership includes local building inspectors, building contractors, architects, and persons representing the skilled building trades and the fire fighting profession. for

The bill specifies that inspections of public buildings and buildings that are places of employment that relate to construction, repair and maintenance must be performed by inspectors who are certified under rules promulgated by DSPS.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

2

Insert 4-1

Insert 4-1

5. The ordinance is submitted to the department within 60 days after the effective date of this subdivision ^{LRB} [revison inserts date].

6. The department determines that the ordinance requires standards that are at least as strict as the rules promulgated by the department.

Insert 5-1

SECTION 1. 101.024 of the statutes is created to read:

101.024 Compliance with rules for public buildings and places of employment; variances. A contractor certified under s. 101.654[✓] may request, and the department may grant, a variance from standard contained in a rule relating to construction, repair and maintenance of public buildings and building that are places of employment if the department finds that the requested variance will impose an equivalent standard that meets the intent of the rule.

SECTION 2. 101.12 (3) (am) 1. of the statutes is renumbered 101.12 (3) (am) and amended to read:

101.12 (3) (am) Accept the examination of essential drawings, calculations and specifications in accordance with sub. (1) performed by a 2nd class city in conformity with the requirements of this paragraph that is certified pursuant to sub. (3m).

History: 1971 c. 185; 1971 c. 228 s. 42; Stats. 1971 s. 101.12; 1973 c. 326; 1979 c. 64, 243; 1983 a. 27; 1989 a. 31, 347; 1991 a. 39; 1993 a. 16; 1995 a. 27 ss. 3660, 3660m, 9126 (19); 2007 a. 20 s. 9121 (6) (a); 2011 a. 199.

SECTION 3. 101.12 (3) (am) 2. of the statutes is renumbered 101.12 (3m) (a).

SECTION 4. 101.12 (3) (am) 3. of the statutes is renumbered 101.12 (3m) (b) and amended to read:

101.12 (3m) (b) A 2nd class city may apply for certification by the department for the purposes of this paragraph under this subsection if that city employs at least one architect or one professional engineer who has been granted a certificate of registration under s. 443.10. The department shall certify a 2nd class city when the

Subsection

1 department determines and certifies the competency of all examiners employed by
2 the city. The department shall review the competency of the examiners of a city that
3 is certified under this paragraph on a regular basis and may revoke the certification
4 of a city if the examiners do not meet standards specified by the department.

History: 1971 c. 185; 1971 c. 228 s. 42; Stats. 1971 s. 101.12; 1973 c. 326; 1979 c. 64, 243; 1983 a. 27; 1989 a. 31, 347; 1991 a. 39; 1993 a. 16; 1995 a. 27 ss. 3660, 3660m, 9126 (19); 2007 a. 20 s. 9121 (6) (a); 2011 a. 199.

SECTION 5. 101.12 (3) (am) 4. of the statutes is renumbered 101.12 (3m) (c).

SECTION 6. 101.12 (3) (am) 5. of the statutes is renumbered 101.12 (3m) (e) and
amended to read:

101.12 (3m) (e) The department shall by rule set fees, to be collected by the 2nd
class city and remitted to the department, to meet the department's costs in enforcing
and administering its duties under sub. (3) (am) and (bm) and this subsection.

History: 1971 c. 185; 1971 c. 228 s. 42; Stats. 1971 s. 101.12; 1973 c. 326; 1979 c. 64, 243; 1983 a. 27; 1989 a. 31, 347; 1991 a. 39; 1993 a. 16; 1995 a. 27 ss. 3660, 3660m, 9126 (19); 2007 a. 20 s. 9121 (6) (a); 2011 a. 199.

SECTION 7. 101.12 (3) (br) of the statutes is created to read:

101.12 (3) (br) Accept the review and determination performed by 2nd class
cities that are certified pursuant to sub. (3m) on variances for buildings if the
variances are reviewed and decided on in a manner approved by the department.

SECTION 8. 101.12 (3m) (d) of the statutes is created to read:

101.12 (3m) (d) The department shall certify 2nd class cities to perform reviews
and determinations of variances under sub. (3) (br) if the 2nd class city has been
certified for purposes of sub. (3) (am).

Insert 5-18

SECTION 9. 101.19 (1g) (am) of the statutes is amended to read:

101.19 (1g) (am) The services specified by s. 101.12 (3) (am) and (br) and (3m).

History: 1971 c. 185; 1971 c. 228 s. 42; Stats. 1971 s. 101.19; 1975 c. 39; 1977 c. 29; 1979 c. 221; 1983 a. 27, 94, 446; 1987 a. 343; 1991 a. 39, 269; 1993 a. 414; 1999 a. 53; 2001 a. 16; 2005 a. 45, 456; 2007 a. 203; 2009 a. 28; 2011 a. 32, 199, 209.

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plain (am))

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2184/1dn

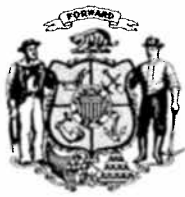
MGG:7:...

SAC

- date -

1. I am unsure which local governments employ inspectors. I have referred to cities, villages, and counties. Let me know if you want any changes.
2. Note how I described a "building contractor" in s. 101.024.

Mary Gibson-Glass
Senior Legislative Attorney
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Today

2013 BILL

1 AN ACT *to renumber* 101.12 (3) (am) 2. and 101.12 (3) (am) 4.; *to renumber and*
2 *amend* 101.12 (3) (am) 1., 101.12 (3) (am) 3. and 101.12 (3) (am) 5.; *to amend*
3 101.19 (1g) (am); and *to create* 15.407 (18), 101.02 (7r), 101.023, 101.024,
4 101.12 (3) (bq), 101.12 (3m) (d) and 101.12 (4) of the statutes; **relating to:**
5 ordinances, variances, and rules relating to the construction, repair, and
6 maintenance of public buildings and buildings that are places of employment,
7 the creation of a building code council, and inspections of public buildings and
8 buildings that are places of employment.

Analysis by the Legislative Reference Bureau

With certain exceptions, current law requires the Department of Safety and Professional Services (DSPS) to establish reasonable standards or rules for the construction, repair, and maintenance of public buildings and buildings that are places of employment so as to render them safe. Pursuant to this requirement, DSPS has promulgated rules establishing such standards. This bill prohibits a city, village, or town from enacting or enforcing an ordinance that establishes minimum standards for the construction, repair, and maintenance of public buildings and buildings that are places of employment unless that ordinance strictly conforms to the rules promulgated DSPS. The bill creates an exception to this prohibition for

BILL

ordinances establishing property maintenance codes and for certain ordinances relating to fire detection, prevention, or suppression for buildings that are not multifamily dwellings and that were enacted before May 1, 2013.

The bill authorizes DSPS to grant a variance from a standard contained in a rule for a specific building, maintenance, or repair project for a public building or a place of employment if the department finds that the requested variance will impose an equivalent standard that meets the intent of the rule.

Under current law, DSPS must accept the examinations of essential drawings and specifications (plan examinations) for public buildings and buildings that are places of employment that have been performed by 1st class cities or by 2nd class cities that meet certain requirements relating to the competency of the persons performing the plan examinations. A 1st class city is one with a population of at least 150,000. A 2nd class city is one with a population of at least 39,000 but less than 150,000. Also under current law, DSPS must accept reviews and determinations by 1st class cities regarding variances for public buildings and buildings that are places of employment if the reviews and determinations are performed in a manner approved by DSPS. This bill requires that DSPS accept variance reviews and determinations by 2nd class cities that are certified by DSPS to perform plan examinations.

This bill creates a building code council (council) in DSPS to advise the department about issues related to the construction, repair, and maintenance of public buildings and buildings that are places of employment. The council consists of ten members, appointed by the secretary of DSPS for three-year terms. The membership includes local building inspectors, building contractors, architects, and persons representing the skilled building trades and the fire fighting profession.

The bill specifies that inspections of public buildings and buildings that are places of employment that relate to construction, repair and maintenance must be performed by inspectors who are certified under rules promulgated by DSPS.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 15.407 (18) of the statutes is created to read:

2 **15.407 (18) BUILDING CODE COUNCIL.** (a) There is created in the department of
3 safety and professional services a building code council consisting of the following
4 members appointed for 3-year terms:

5 1. Two members representing the skilled building trades, each of whom is
6 actively engaged in his or her trade.

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2. Two members representing local building inspectors, each of whom is authorized to do inspections under s. 101.12 (4) and who is employed by a city, village, or county.

3. Two members representing the fire services, each of whom is actively engaged in fire service work and at least one of whom is a fire chief.

4. Two members representing building contractors, each of whom is actively engaged in on-site construction of public buildings and buildings that are places of employment.

5. Two members representing architects, engineers, and designers, each of whom is actively engaged in the design or evaluation of public buildings and buildings that are places of employment.

(b) An employee of the department shall serve as nonvoting secretary of the council.

(c) The council shall meet at least 2 times annually.

(d) Six members of the council shall constitute a quorum. For the purpose of conducting business a majority vote of the council is required, except that at least 8 members of the council are required to vote affirmatively to recommend changes in the statutes or rules.

SECTION 2. 101.02 (7r) of the statutes is created to read:

101.02 (7r) (a) *Strict compliance required.* Notwithstanding sub. (7) (a), no city, village, or town may enact or enforce an ordinance establishing minimum standards for the construction, repair, or maintenance of public buildings or buildings that are places of employment unless that ordinance strictly conforms to rules promulgated by the department under sub. (15) (j), except as provided in pars. (b) to (d).

BILL**SECTION 2**

1 (b) *Exemption; prior ordinances.* Notwithstanding par. (a), a town, village, or
2 city may enforce an ordinance establishing minimum standards for construction,
3 repair, or maintenance of public buildings or buildings that are places of employment
4 that does not strictly conform to the rules promulgated by the department under sub.
5 (15) (j) if all of the following apply:

6 1. The ordinance was enacted before May 1, 2013.

7 2. The ordinance was published by the town, village, or city in the manner
8 required under s. 60.80, 61.50, or 62.11 (4).

9 3. The ordinance relates to fire detection, prevention, or suppression.

10 4. The building is not a multifamily dwelling, as defined in s. 101.971 (2).

11 5. The ordinance is submitted to the department within 60 days after the
12 effective date of this subdivision [LRB inserts date].

13 6. The department determines that the ordinance requires standards that are
14 at least as strict as the rules promulgated by the department.

15 (c) *Amendments to prior ordinances.* A town, village, or city may amend an
16 ordinance that is enforceable under par. (b) if all of the following apply:

17 1. The amendment will not broaden the applicability of the ordinance or change
18 the subject matter of the ordinance.

19 2. The town, village, or city submits a copy of the proposed amendment to the
20 department at least 120 days before the effective date of the amendment.

21 3. The town, village, or city publishes the enacted amendment in the manner
22 required under s. 60.80, 61.50, or 62.11 (4) at least 120 days before the effective date
23 of the amendment.

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1 (d) *Property maintenance code*. Notwithstanding par. (a), a town, village, or city
2 may enact and enforce an ordinance establishing a property maintenance code that
3 is stricter than rules promulgated by the department under sub. (15) (j).

4 **SECTION 3.** 101.023 of the statutes is created to read:

5 **101.023 Building code council duties.** The building code council shall
6 review the rules for construction, repair, and maintenance of public buildings and
7 buildings that are places of employment. The council shall consider and make
8 recommendations to the department pertaining to these rules and any other matters
9 related to the construction, repair, and maintenance of public buildings and
10 buildings that are places of employment. The council shall identify, consider, and
11 make recommendations to the department regarding variances in the rules for
12 different climate and soil conditions and the variable conditions created by building
13 and population densities. In preparing rules under this chapter that relate to public
14 buildings and to buildings that are places of employment, the department shall
15 consult with the building code council.

16 **SECTION 4.** 101.024 of the statutes is created to read:

17 **101.024 Compliance with rules for public buildings and places of**
18 **employment; variances.** A contractor certified under s. 101.654 may request, and
19 the department may grant, a variance from standards contained in a rule relating
20 to construction, repair, and maintenance of public buildings and buildings that are
21 places of employment if the department finds that the requested variance will
22 impose an equivalent standard that meets the intent of the rule.

23 **SECTION 5.** 101.12 (3) (am) 1. of the statutes is renumbered 101.12 (3) (am) and
24 amended to read:

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SECTION 5

1 101.12 (3) (am) Accept the examination of essential drawings, calculations and
2 specifications in accordance with sub. (1) performed by a 2nd class city ~~in conformity~~
3 ~~with the requirements of this paragraph that is certified pursuant to sub. (3m).~~

4 **SECTION 6.** 101.12 (3) (am) 2. of the statutes is renumbered 101.12 (3m) (a).

5 **SECTION 7.** 101.12 (3) (am) 3. of the statutes is renumbered 101.12 (3m) (b) and
6 amended to read:

7 101.12 (3m) (b) A 2nd class city may apply for certification by the department
8 ~~for the purposes of this paragraph~~ under this subsection if that city employs at least
9 one architect or one professional engineer who has been granted a certificate of
10 registration under s. 443.10. The department shall certify a 2nd class city when the
11 department determines and certifies the competency of all examiners employed by
12 the city. The department shall review the competency of the examiners of a city that
13 is certified under this ~~paragraph~~ subsection on a regular basis and may revoke the
14 certification of a city if the examiners do not meet standards specified by the
15 department.

16 **SECTION 8.** 101.12 (3) (am) 4. of the statutes is renumbered 101.12 (3m) (c).

17 **SECTION 9.** 101.12 (3) (am) 5. of the statutes is renumbered 101.12 (3m) (e) and
18 amended to read:

19 101.12 (3m) (e) The department shall by rule set fees, to be collected by the 2nd
20 class city and remitted to the department, to meet the department's costs in enforcing
21 and administering its duties under ~~this paragraph~~ sub. (3) (am) and this subsection.

22 **SECTION 10.** 101.12 (3) (bq) of the statutes is created to read:

23 101.12 (3) (bq) Accept the review and determination performed by 2nd class
24 cities that are certified pursuant to sub. (3m) on variances for buildings if the
25 variances are reviewed and decided on in a manner approved by the department.

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1 **SECTION 11.** 101.12 (3m) (d) of the statutes is created to read:

2 101.12 (**3m**) (d) The department shall certify 2nd class cities to perform reviews
3 and determinations of variances under sub. (3) (bq) if the 2nd class city has been
4 certified for purposes of sub. (3) (b).

5 **SECTION 12.** 101.12 (4) of the statutes is created to read:

6 101.12 (**4**) (**1**) Any inspection performed to determine compliance with the
7 building code rules promulgated by the department that relate to the construction,
8 repair, and maintenance of public buildings and buildings that are places of
9 employment may be performed only by a person who is certified under rules
10 promulgated by the department to make such inspections.

11 **SECTION 13.** 101.19 (1g) (am) of the statutes is amended to read:

12 101.19 (**1g**) (am) The services specified by s. 101.12 (3) (am) and (bq) and (3m).

13 **SECTION 14. Nonstatutory provisions.**

14 (1) COUNCIL; TERMS OF INITIAL MEMBERS. Notwithstanding the length of terms
15 specified in section 15.407 (18) (a) (intro.) of the statutes, as created by this act, the
16 initial members of the building code council under section 15.407 (18) of the statutes,
17 as created by this act, shall be appointed by the governor for the following terms:

18 (a) One member appointed under section 15.407 (18) (a) 2. of the statutes, as
19 created by this act, one member appointed under section 15.407 (18) (a) 3. of the
20 statutes, as created by this act, one member appointed under section 15.407 (18) (a)
21 4. of the statutes, as created by this act, and one member appointed under section
22 15.407 (18) (a) 5. of the statutes, as created by this act, for terms expiring on July 1,
23 2017.

24 (b) One member appointed under section 15.407 (18) (a) 1. of the statutes, as
25 created by this act, one member appointed under section 15.407 (18) (a) 2. of the

BILL**SECTION 14**

1 statutes, as created by this act, and one member appointed under section 15.407 (18)

2 (a) 4. of the statutes, as created by this act, for terms expiring on July 1, 2016.

3 (c) One member appointed under section 15.407 (18) (a) 1. of the statutes, as
4 created by this act, one member appointed under section 15.407 (18) (a) 3. of the
5 statutes, as created by this act, one member appointed under section 15.407 (18) (a)
6 5. of the statutes, as created by this act, for terms expiring on July 1, 2015.

7 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2184/1dn
MGG:sac:jm

July 31, 2013

1. I am unsure which local governments employ inspectors. I have referred to cities, villages, and counties. Let me know if you want any changes.
2. Note how I described a “building contractor” in s. 101.024.

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215
E-mail: mary.gibson-glass@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2184/1dn
MGG:sac:jm

August 2, 2013

1. I am unsure which local governments employ inspectors. I have referred to cities, villages, and counties. Let me know if you want any changes.
2. Note how I described a "building contractor" in s. 101.024.

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215
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Gibson-Glass, Mary

From: Duerkop, Nathan
Sent: Thursday, August 15, 2013 2:45 PM
To: Gibson-Glass, Mary
Subject: RE: Draft review: LRB -2184/P1 Topic: Ordinances setting building standards

Mary,

Below are some suggested changes to LRB 2184/1. Let me know if you have concerns with any of these. Thanks!

Nathan

1. Relating to Section 2 grandfather provisions and amendments to grandfather provisions under s. 101.02 (7r) (b) and (c) --- An additional provision should be included that reads something like --- "The department shall maintain a list of ordinances that are grandfathered under s. 101.02 (7r) (b) and amendments to ordinances under s. 101.02 (7r) (c). The list shall be accessible to the public in electronic format including copies of grandfathered ordinances and amendments.

2. Relating to the drafters note and to Section 4 regarding "contractor. The reference to a contractor under s. 101.654 relates to dwelling code contractors which is not applicable here. Accordingly, the draft should be revised as follows:

On page 5, line 18, delete: "A contractor certified under s. 101.654" and replace with "A person who applies for a building permit"

3. Relating to appointment of the members of the Building Code Council --- the bill draft correctly references gubernatorial appointment on page 7, line 17 of the draft in Section 14. However, the LRB bill analysis, on page 2, third paragraph from the bottom, references appointment by the secretary of DSPS. The draft is fine --- the analysis just needs to be revised to refer to gubernatorial rather than secretary appointment.

From: Gibson-Glass, Mary
Sent: Tuesday, July 30, 2013 3:44 PM
To: Duerkop, Nathan
Subject: RE: Draft review: LRB -2184/P1 Topic: Ordinances setting building standards

Nathan,

This draft is in editing. You should have it by the end of the week.

Mary

From: Duerkop, Nathan
Sent: Tuesday, July 30, 2013 3:17 PM
To: Gibson-Glass, Mary
Subject: RE: Draft review: LRB -2184/P1 Topic: Ordinances setting building standards

Hello,

Just wondering if you've had a chance to look over the requested changes as attached. Thank you,

Nathan

From: Duerkop, Nathan
Sent: Tuesday, July 02, 2013 3:25 PM

To: Gibson-Glass, Mary

Subject: RE: Draft review: LRB -2184/P1 Topic: Ordinances setting building standards

Attached are some requested changes to this draft. Let me know if you have any questions. Thanks,

Nathan

Office of Sen. Moulton

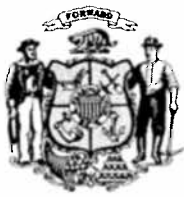
From: LRB.Legal

Sent: Wednesday, May 29, 2013 10:03 AM

To: Sen.Moulton

Subject: Draft review: LRB -2184/P1 Topic: Ordinances setting building standards

Following is the PDF version of draft LRB -2184/P1 and drafter's note.



State of Wisconsin
2013 - 2014 LEGISLATURE



RMR

LRB-2184/T 2
MGG:sac:mr

Tues
AM

D-N

2013 BILL

1 AN ACT *to renumber* 101.12 (3) (am) 2. and 101.12 (3) (am) 4.; *to renumber and*
2 *amend* 101.12 (3) (am) 1., 101.12 (3) (am) 3. and 101.12 (3) (am) 5.; *to amend*
3 101.19 (1g) (am); and *to create* 15.407 (18), 101.02 (7r), 101.023, 101.024,
4 101.12 (3) (bq), 101.12 (3m) (d) and 101.12 (4) of the statutes; **relating to:**
5 ordinances, variances, and rules relating to the construction, repair, and
6 maintenance of public buildings and buildings that are places of employment,
7 the creation of a building code council, and inspections of public buildings and
8 buildings that are places of employment.

Analysis by the Legislative Reference Bureau

With certain exceptions, current law requires the Department of Safety and Professional Services (DPS) to establish reasonable standards or rules for the construction, repair, and maintenance of public buildings and buildings that are places of employment so as to render them safe. Pursuant to this requirement, DPS has promulgated rules establishing such standards. This bill prohibits a city, village, or town from enacting or enforcing an ordinance that establishes minimum standards for the construction, repair, and maintenance of public buildings and buildings that are places of employment unless that ordinance strictly conforms to the rules promulgated DPS. The bill creates an exception to this prohibition for

BILL

ordinances establishing property maintenance codes and for certain ordinances relating to fire detection, prevention, or suppression for buildings that are not multifamily dwellings and that were enacted before May 1, 2013.

The bill authorizes DSPS to grant a variance from a standard contained in a rule for a specific building, maintenance, or repair project for a public building or a place of employment if the department finds that the requested variance will impose an equivalent standard that meets the intent of the rule.

Under current law, DSPS must accept the examinations of essential drawings and specifications (plan examinations) for public buildings and buildings that are places of employment that have been performed by 1st class cities or by 2nd class cities that meet certain requirements relating to the competency of the persons performing the plan examinations. A 1st class city is one with a population of at least 150,000. A 2nd class city is one with a population of at least 39,000 but less than 150,000. Also under current law, DSPS must accept reviews and determinations by 1st class cities regarding variances for public buildings and buildings that are places of employment if the reviews and determinations are performed in a manner approved by DSPS. This bill requires that DSPS accept variance reviews and determinations by 2nd class cities that are certified by DSPS to perform plan examinations.

This bill creates a building code council (council) in DSPS to advise the department about issues related to the construction, repair, and maintenance of public buildings and buildings that are places of employment. The council consists of ten members, appointed by the ^{governor} ~~secretary of DSPS~~ for three-year terms. The membership includes local building inspectors, building contractors, architects, and persons representing the skilled building trades and the fire fighting profession.

The bill specifies that inspections of public buildings and buildings that are places of employment that relate to construction, repair and maintenance must be performed by inspectors who are certified under rules promulgated by DSPS.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 15.407 (18) of the statutes is created to read:

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1. Two members representing the skilled building trades, each of whom is actively engaged in his or her trade.

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1 2. Two members representing local building inspectors, each of whom is
2 authorized to do inspections under s. 101.12 (4) and who is employed by a city, village,
3 or county.

4 3. Two members representing the fire services, each of whom is actively
5 engaged in fire service work and at least one of whom is a fire chief.

6 4. Two members representing building contractors, each of whom is actively
7 engaged in on-site construction of public buildings and buildings that are places of
8 employment.

9 5. Two members representing architects, engineers, and designers, each of
10 whom is actively engaged in the design or evaluation of public buildings and
11 buildings that are places of employment.

12 (b) An employee of the department shall serve as nonvoting secretary of the
13 council.

14 (c) The council shall meet at least 2 times annually.

15 (d) Six members of the council shall constitute a quorum. For the purpose of
16 conducting business a majority vote of the council is required, except that at least 8
17 members of the council are required to vote affirmatively to recommend changes in
18 the statutes or rules.

19 **SECTION 2.** 101.02 (7r) of the statutes is created to read:

20 101.02 (7r) (a) Strict compliance required. Notwithstanding sub. (7) (a), no city,
21 village, or town may enact or enforce an ordinance establishing minimum standards
22 for the construction, repair, or maintenance of public buildings or buildings that are
23 places of employment unless that ordinance strictly conforms to rules promulgated
24 by the department under sub. (15) (j), except as provided in pars. (b) to (d).

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(1) (b) *Exemption; prior ordinances* Notwithstanding par. (a), a town, village, or city may enforce an ordinance establishing minimum standards for construction, repair, or maintenance of public buildings or buildings that are places of employment that does not strictly conform to the rules promulgated by the department under sub. (15) (j) if all of the following apply:

1. The ordinance was enacted before May 1, 2013.

2. The ordinance was published by the town, village, or city in the manner required under s. 60.80, 61.50, or 62.11 (4).

3. The ordinance relates to fire detection, prevention, or suppression.

4. The building is not a multifamily dwelling, as defined in s. 101.971 (2).

5. The ordinance is submitted to the department within 60 days after the effective date of this subdivision [LRB inserts date].

6. The department determines that the ordinance requires standards that are at least as strict as the rules promulgated by the department.

(15) (c) *Amendments to prior ordinances.* A town, village, or city may amend an ordinance that is enforceable under par. (b) if all of the following apply:

1. The amendment will not broaden the applicability of the ordinance or change the subject matter of the ordinance.

2. The town, village, or city submits a copy of the proposed amendment to the department at least 120 days before the effective date of the amendment.

3. The town, village, or city publishes the enacted amendment in the manner required under s. 60.80, 61.50, or 62.11 (4) at least 120 days before the effective date of the amendment.

← INSERT
4 -23

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(1) (e) ~~(a)~~ Property maintenance code. Notwithstanding par. (a), a town, village, or city may enact and enforce an ordinance establishing a property maintenance code that is stricter than rules promulgated by the department under sub. (15) (j).

SECTION 3. 101.023 of the statutes is created to read:

101.023 Building code council duties. The building code council shall review the rules for construction, repair, and maintenance of public buildings and buildings that are places of employment. The council shall consider and make recommendations to the department pertaining to these rules and any other matters related to the construction, repair, and maintenance of public buildings and buildings that are places of employment. The council shall identify, consider, and make recommendations to the department regarding variances in the rules for different climate and soil conditions and the variable conditions created by building and population densities. In preparing rules under this chapter that relate to public buildings and to buildings that are places of employment, the department shall consult with the building code council.

SECTION 4. 101.024 of the statutes is created to read:

101.024 Compliance with rules for public buildings and places of employment; variances. A contractor certified under s. 101.654 may request, and the department may grant, a variance from standards contained in a rule relating to construction, repair, and maintenance of public buildings and buildings that are places of employment if the department finds that the requested variance will impose an equivalent standard that meets the intent of the rule.

SECTION 5. 101.12 (3) (am) 1. of the statutes is renumbered 101.12 (3) (am) and amended to read:

BILL**SECTION 5**

1 101.12 (3) (am) Accept the examination of essential drawings, calculations and
2 specifications in accordance with sub. (1) performed by a 2nd class city ~~in conformity~~
3 ~~with the requirements of this paragraph that is certified pursuant to sub. (3m).~~

4 **SECTION 6.** 101.12 (3) (am) 2. of the statutes is renumbered 101.12 (3m) (a).

5 **SECTION 7.** 101.12 (3) (am) 3. of the statutes is renumbered 101.12 (3m) (b) and
6 amended to read:

7 101.12 (3m) (b) A 2nd class city may apply for certification by the department
8 ~~for the purposes of this paragraph~~ under this subsection if that city employs at least
9 one architect or one professional engineer who has been granted a certificate of
10 registration under s. 443.10. The department shall certify a 2nd class city when the
11 department determines and certifies the competency of all examiners employed by
12 the city. The department shall review the competency of the examiners of a city that
13 is certified under this ~~paragraph~~ subsection on a regular basis and may revoke the
14 certification of a city if the examiners do not meet standards specified by the
15 department.

16 **SECTION 8.** 101.12 (3) (am) 4. of the statutes is renumbered 101.12 (3m) (c).

17 **SECTION 9.** 101.12 (3) (am) 5. of the statutes is renumbered 101.12 (3m) (e) and
18 amended to read:

19 101.12 (3m) (e) The department shall by rule set fees, to be collected by the 2nd
20 class city and remitted to the department, to meet the department's costs in enforcing
21 and administering its duties under ~~this paragraph sub. (3) (am)~~ and this subsection.

22 **SECTION 10.** 101.12 (3) (bq) of the statutes is created to read:

23 101.12 (3) (bq) Accept the review and determination performed by 2nd class
24 cities that are certified pursuant to sub. (3m) on variances for buildings if the
25 variances are reviewed and decided on in a manner approved by the department.

BILL

SECTION 11. 101.12 (3m) (d) of the statutes is created to read:

101.12 (3m) (d) The department shall certify 2nd class cities to perform reviews and determinations of variances under sub. (3) (bq) if the 2nd class city has been certified for purposes of sub. (3) (b).

SECTION 12. 101.12 (4) of the statutes is created to read:

101.12 (4) (1) Any inspection performed to determine compliance with the building code rules promulgated by the department that relate to the construction, repair, and maintenance of public buildings and buildings that are places of employment may be performed only by a person who is certified under rules promulgated by the department to make such inspections.

SECTION 13. 101.19 (1g) (am) of the statutes is amended to read:

101.19 (1g) (am) The services specified by s. 101.12 (3) (am) and (bq) and (3m).

SECTION 14. Nonstatutory provisions.

(1) COUNCIL; TERMS OF INITIAL MEMBERS. Notwithstanding the length of terms specified in section 15.407 (18) (a) (intro.) of the statutes, as created by this act, the initial members of the building code council under section 15.407 (18) of the statutes, as created by this act, shall be appointed by the governor for the following terms:

(a) One member appointed under section 15.407 (18) (a) 2. of the statutes, as created by this act, one member appointed under section 15.407 (18) (a) 3. of the statutes, as created by this act, one member appointed under section 15.407 (18) (a) 4. of the statutes, as created by this act, and one member appointed under section 15.407 (18) (a) 5. of the statutes, as created by this act, for terms expiring on July 1, 2017.

(b) One member appointed under section 15.407 (18) (a) 1. of the statutes, as created by this act, one member appointed under section 15.407 (18) (a) 2. of the

BILL**SECTION 14**

1 statutes, as created by this act, and one member appointed under section 15.407 (18)

2 (a) 4. of the statutes, as created by this act, for terms expiring on July 1, 2016.

3 (c) One member appointed under section 15.407 (18) (a) 1. of the statutes, as
4 created by this act, one member appointed under section 15.407 (18) (a) 3. of the
5 statutes, as created by this act, one member appointed under section 15.407 (18) (a)
6 5. of the statutes, as created by this act, for terms expiring on July 1, 2015.

7 (END)

D-N